



New South Wales

Bega Valley Local Environmental Plan 2013 (Amendment No 43)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

DANIEL THOMPSON

As delegate for the Minister for Planning and Public Spaces

Bega Valley Local Environmental Plan 2013 (Amendment No 43)

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1 Name of plan

This plan is *Bega Valley Local Environmental Plan 2013 (Amendment No 43)*.

2 Commencement

This plan commences on the day on which it is published on the NSW legislation website.

3 Land to which plan applies

This plan applies to land to which *Bega Valley Local Environmental Plan 2013* applies.

4 Maps

The maps adopted by *Bega Valley Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this plan.

Schedule 1 Amendment of Bega Valley Local Environmental Plan 2013

[1] Clause 1.2 Aims of Plan

Omit “choice” from clause 1.2(2)(f).

Insert instead “choices, including affordable and adaptive housing,”.

[2] Land Use Table

Insert “Multi dwelling housing;” in appropriate order in Zones RU5, item 3 and R2, item 3.

[3] Land Use Table, Zone R2, item 1

Insert at the end of the item—

- To provide a mix of housing, including affordable and adaptable housing, to meet community needs.

[4] Clause 4.1A, heading

Insert “and secondary dwellings” after “occupancies”.

[5] Clause 4.1A(3)

Omit the subclause. Insert instead—

- (3) Development consent must not be granted to development for the purposes of dual occupancies or secondary dwellings unless the lot is at least—
 - (a) for dual occupancies—550m², or
 - (b) for secondary dwellings—450m².

[6] Part 6 Additional local provisions

Insert after clause 6.12—

6.13 Exception to minimum lot sizes for certain land in Zone RU5

- (1) The objective of this clause is to encourage housing diversity without adversely affecting residential amenity.
- (2) This clause applies to the subdivision of land in Zone RU5 Village in Candelo or Kalaru if the consent authority is satisfied—
 - (a) the land is not flood prone land, and
 - (b) each lot will be serviced by a water reticulation system and a reticulated sewerage system.
- (3) The minimum lot size is—
 - (a) for land in Kalaru—550m², or
 - (b) for land in Candelo—600m².

6.14 Multi dwelling housing in Zone RU5

- (1) Development consent must not be granted to development for the purposes of multi dwelling housing on land in Zone RU5 Village in Candelo or Kalaru unless the consent authority is satisfied—
 - (a) the land is not flood prone land, and
 - (b) each lot will be serviced by a water reticulation system and a reticulated sewerage system, and

- (c) each lot will be at least 1,000m².
- (2) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle must not be included in calculating the lot size.

6.15 Exception to minimum lot sizes for certain land in Zone R2

- (1) The objective of this clause is to ensure that residential development makes efficient use of land and infrastructure so that new housing becomes available without adversely affecting residential amenity or the natural environment.
- (2) This clause applies to land in Zone R2 Low Density Residential other than land in Bermagui, Tura Beach, Wallaga Lake or Wolumla.
- (3) Up to 40% of lots resulting from a subdivision of land to which this clause applies may be smaller than the minimum lot size for the land if the consent authority is satisfied—
 - (a) the land is not flood prone land and is not likely to be affected by a coastal hazard, and
 - (b) each lot resulting from the subdivision will be at least 350m², and
 - (c) each lot resulting from the subdivision will be serviced by a water reticulation system and a reticulated sewerage system, and
 - (d) no lot that will be smaller than the minimum lot size for the land will be a battle-axe lot.
- (4) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle must not be included in calculating the lot size.
- (5) In this clause—
minimum lot size means minimum lot size shown for the land on the Lot Size Map.

6.16 Multi dwelling housing in Zone R2

- (1) This clause applies to land in Zone R2 Low Density Residential other than land in Bermagui, Tura Beach, Wallaga Lake or Wolumla.
- (2) Development consent must not be granted to development for the purposes of multi dwelling housing on land to which this clause applies unless the consent authority is satisfied—
 - (a) the land is not flood prone land and is not likely to be affected by a coastal hazard, and
 - (b) each lot will be serviced by a water reticulation system and a reticulated sewerage system, and
 - (c) each lot will be at least 900m².
- (3) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle must not be included in calculating the lot size.

6.17 Exception to minimum lot sizes for certain residential development

- (1) This clause applies to the subdivision of land in—
 - (a) Zone RU5 Village in Candelo or Kalaru, and
 - (b) Zone R2 Low Density Residential, other than land in Bermagui, Tura Beach, Wallaga Lake or Wolumla.
- (2) Despite clauses 6.13 and 6.15, the minimum lot size for land to which this clause applies is 350m² if—

- (a) a single development application is made for—
 - (i) subdivision of land into between 3 and 6 lots, and
 - (ii) the erection of a single storey dwelling house on each resulting lot, and
- (b) the consent authority is satisfied—
 - (i) the land is not flood prone land and is not likely to be affected by a coastal hazard, and
 - (ii) each resulting lot will be serviced by a water reticulation system and a reticulated sewerage system, and
 - (iii) at least 1 resulting lot will not be a battle-axe lot.
- (3) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle must not be included in calculating the lot size.

6.18 Landscaped areas in Zones RU5, R2 and R3

- (1) The objectives of this clause are to—
 - (a) preserve the character and identity of Bega Valley by ensuring that new development is enhanced by landscaping that contributes to the aesthetic quality of the surrounding area and that softens the visual impact of buildings on the streetscape, and
 - (b) improve the provision of trees and shade, and
 - (c) mitigate the effects of urban heat and extreme hot weather events, and
 - (d) limit the cumulative impacts of hard surface treatments on stormwater systems, and
 - (e) provide habitat for local wildlife.
- (2) This clause applies to land in the following zones—
 - (a) Zone RU5 Village,
 - (b) Zone R2 Low Density Residential,
 - (c) Zone R3 Medium Density Residential.
- (3) Development consent must not be granted to development involving the erection of a building unless the consent authority is satisfied the landscaped area of the site will be at least—
 - (a) for land in Zone RU5 Village—
 - (i) if the site area is less than 1,500m²—40% of the site area, or
 - (ii) if the site area is 1,500m² or more—45% of the site area, or
 - (b) for land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—35% of the site area.

6.19 Diverse housing

- (1) The objectives of this clause are to ensure—
 - (a) the provision of a mix of dwelling types in residential flat buildings, multi dwelling housing and shop top housing, and
 - (b) new development meets the housing needs of current and future residents of Bega Valley.
- (2) This clause applies to development for the purposes of residential flat buildings, multi dwelling housing or shop top housing.

- (3) Development consent must not be granted to development involving the erection of 3 or 4 dwellings unless the consent authority is satisfied at least 1 dwelling will—
 - (a) be a studio, 1-bedroom or 2-bedroom dwelling, and
 - (b) have a gross floor area of no more than 75m².
- (4) Development consent must not be granted for development involving the erection of 5 or more dwellings unless the consent authority is satisfied—
 - (a) at least 20% of the dwellings, rounded up, will—
 - (i) be studio dwellings or have 1 bedroom and 1 bathroom, and
 - (ii) each have a gross floor area of no more than 55m², and
 - (b) at least 20% of the dwellings, rounded up, will—
 - (i) have 2 bedrooms and 1 bathroom, and
 - (ii) each have a gross floor area of no more than 75m².

6.20 Adaptable housing

- (1) The objective of this clause is to increase the number of dwellings in Bega Valley that are constructed in a way permitting adaptation for persons with a disability.
- (2) Development consent must not be granted for the purposes of residential accommodation in Zone E1 Local Centre or Zone E2 Commercial Centre unless the consent authority is satisfied of the following—
 - (a) all dwellings at ground level will meet the silver performance level,
 - (b) for development for the purposes of residential flat buildings containing 4 or more dwellings above ground level—at least 25% of dwellings above ground level will meet the silver performance level,
 - (c) for development for the purposes of shop top housing containing 4 or more dwellings—at least 25% of the dwellings will meet the silver performance level.
- (3) Development consent must not be granted to development for the purposes of prescribed multi dwelling housing, prescribed residential flat buildings or prescribed shop top housing unless the consent authority is satisfied at least 25% of dwellings will meet the silver performance level.
- (4) In this clause—

prescribed multi dwelling housing means multi dwelling housing comprising 4 or more dwellings in one of the following zones—

 - (a) Zone RU5 Village,
 - (b) Zone R2 Low Density Residential,
 - (c) Zone R3 Medium Density Residential,
 - (d) Zone MU1 Mixed Use.

prescribed residential flat buildings means residential flat buildings comprising 4 or more dwellings in one of the following zones—

 - (a) Zone R3 Medium Density Residential,
 - (b) Zone MU1 Mixed Use.

prescribed shop top housing means shop top housing comprising 4 or more dwellings in one of the following zones—

 - (a) Zone RU5 Village,

- (b) Zone R3 Medium Density Residential,
- (c) Zone MU1 Mixed Use.

silver performance level means the silver level performance level set out in the *Liveable Housing Guidelines*, Fourth Edition, published by Liveable Housing Australia in 2017.